UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

In re: WESTERN INSURANCE COMPANY, Plaintiff, v. DICK L. ROTTMAN, JEFFREY P. SHAFFER, JANICE LYNN BOWMAN, BRADLEY A. PEARCE, R. SCOTT ROTTMAN, and JOHN DOES 1 THROUGH 10, individuals Defendants.	**ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION TO COMPEL DISCOVERY** **Civil No. 2:13-cv-00436-DAK** **Hon. Dale A. Kimball** **Magistrate Evelyn J. Furse**

This matter came before the Court on December 8, 2016, upon Plaintiff's Motion to Compel Discovery dated September 30, 2016 [Dk. # 42]; Plaintiff, Lennard W. Stillman, Special Deputy Liquidator of Western Insurance Company ("Western") appeared in person and represented by Scott M. Lilja and Gerald H. Suniville, of Fabian VanCott, and represented defendants Michael R. Johnson and Robert G. Wing of Ray, Quinney & Nebeker, and Richard Elmore.

Western propounded discovery to certain third parties, namely A & H Management, Inc., A & H Insurance, Inc., Western Bonding Company, Western Thrift and Loan and Access Insurance Services, Inc. ("Access"), collectively, "Non-Parties."

The Defendants and Non-Parties objected to the scope of Western's Rule 30(b)(6) Subpoenas Duces Tecum to such Non-Parties on the grounds that the requests were overbroad, required Non-Parties to disclose confidential information, and that the discovery sought related to claims that the Liquidator does not have standing to assert, particularly as such discovery relates to transactions between Non-Parties and Access.

Western countered Defendants' arguments, asserting, among other things, that the Non-Parties were companies closely affiliated with Western and Access; had common and overlapping officers and directors; that Access' sole role was as Western managing general agent, and that Defendants' lack of standing argument was improper under a discovery analysis.

The parties "met and conferred" prior to filing their respective motions to compel and were unable to resolve their disputes.

The Court, having reviewed the memoranda of the parties, heard the arguments of counsel, and stated its ruling upon the record,

ORDERS as follows:

1. Western's Motion to Compel is granted in part, and denied in part.

2. Western may subpoena the Non-Parties.

3. Western can have discovery about claims pertaining to the same wrongdoing for which the Access trustee has asserted claims. One act can harm two entities.

4. Defendants' and Non-Parties' argument that Western lacks standing to assert its claims to which the discovery at issue relates, rendering that discovery disproportionate, is denied give those claims are still part of the case.

5. Nonetheless, the Court finds the subpoenas as written overly broad given the information sought.

6. The Court directs the parties to meet and confer concerning the scope of the proposed subpoenas given the Court's resolution of the above issues.

6. If the parties cannot agree, they should file another motion.

7. If the Defendants wish to bring motions to dismiss based on their views of standing they should do so, but the Court will not foreclose discovery on existing claims or defenses based on unasserted Motions to Dismiss.

DATED this _29___ day of _December, 2016.

BY THE COURT

Evelyn J. Furse

Evelyn J. Furse, Magistrate Judge